

City of Montgomery
City Council Public Hearing Minutes
January 17, 2024

Present

Brian Riblet, City Manager
Terry Donnellon, Law Director
Tracy Henao, Asst. City Manager
Gary Heitkamp, Public Works Director
Maura Gray, Finance Director
John Crowell, Police Chief
Kevin Chesar, Community Development Director
Paul Wright, Fire Chief
Matthew Vanderhorst, Community and Information Serv. Dir.
Amy Frederick, Community Engagement Coordinator
Connie Gaylor, Clerk of Council

City Council Members Present

Ron Messer, Mayor
Lee Ann Bismeyer
Chris Dobrozsi
Craig Margolis
Catherine Mills-Reynolds
Ken Suer

Council Members Absent

Sasha Naiman, Vice Mayor

City Council convened its Public Hearing for January 17, 2024 at 5:45 p.m. at City Hall with Mayor Messer presiding.

Mayor Messer requested a roll call.

The roll was called with all members present except Vice Mayor Naiman. Mr. Margolis moved to approve of Mrs. Naiman's absence as she had previously notified Council of her scheduled absence. Mr. Suer seconded. City Council unanimously agreed.

NEW BUSINESS

Reconsideration of a Conditional Use Approval for the Church of the Saviour at 8005 Pfeiffer Road

Mr. Chesar explained it is requested that City Council hold a public hearing to consider a recommendation from the Planning Commission for a reconsideration of the Conditional Use Approval Conditions for the Church of the Saviour at 8005 Pfeiffer Road to clarify and update the requirements of counseling services provided by the church at Ministry Center located at 8003 Pfeiffer Road.

Mr. Chesar explained that The Church of the Saviour is a conditionally permitted use in the 'A' Single Family Residential District and they own the building at 8003 Pfeiffer Road, which was used as a parsonage in the past. The Church no longer utilized this building as a parsonage and previously requested to convert the structure to a Ministry Center for group meetings, private consultations, and storage. In April of 2019 City Council voted to accept the recommendation from the Planning Commission to approve the Expansion of a Conditional Use and the Final Development Plan for the Ministry Center at 8003 Pfeiffer Road to allow for a remodel and conversion of the structure.

Mr. Chesar stated that the original conditional use intent was to ensure that an independent business would not operate out of the facility and that all counseling services, while professionally offered, would be related to the Church and their mission and will be limited to faith based counseling.

Mr. Chesar explained that City Staff met at the Ministry Center to discuss with church representatives the concerns and challenges that the specified "faith-based" aspect of counseling has presented as the Church works to assist anyone in need of services. Church officials indicated that "faith based" is a specific form of intervention which directly limits other forms of intervention that may be required, i.e., Cognitive Behavioral Therapy, Mindfulness Therapy, etc. As such, they have not been successful in providing counseling services since the 2019 approval. From that perspective Church leaders emphasized the desire to offer the most appropriate form of mental health counseling services to anyone in need, not only limited to "faith-based" counseling, as part of their mission. They also indicated a desire to work with potentially multiple counseling services to be able to provide a more comprehensive approach. Church representatives requested that the "faith based" requirement be eliminated

58 from the conditions to all allow forms of mental health counseling services that may be needed.

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60 The Planning Commission met on October 2, 2023, and November 11, 2023, to consider the request for
61 reconsideration and continued the case until the December 18, 2023, meeting in order for additional information
62 to be provided. On December 18, 2023, after hearing testimony and discussing the application, the Planning
63 Commission voted unanimously to recommend approval of the reconsideration of the conditional use permit base
64 on the following updated conditions:

65 1) Counseling services at 8003 Pfeifer Road shall comply with the following conditions:

66 a. Counseling services offered at 8003 Pfeifer Road will be limited to mental health counseling by
67 licensed professionals.

68 b. Services will be contracted by and monitored by the church board;

69 c. Counseling space will be less than 25% of the total floor area and no more than 1250 square feet;
70 and,

71 d. There will be no charges for the counselor's use of the space;

72 e. A patient may directly compensate a provider for mental health counseling.

73 f. An individual provider/company will not operate more than 20 hours per week.

74 g. No more than 40 hours of operation (building open for counseling) per week in total for all
75 counseling services is permitted.

76 h. All counseling services shall be provided between the hours of 8 a.m. to 9 p.m.

77 i. There will be no signage for the provider of services.

78 j. No counseling provider/company shall operate their principal office on the site.

79 2) A continuous evergreen screen be planted between the existing driveway and the adjacent property to the
80 west in compliance with the plan presented to City Council at the public hearing and approved by Staff
81 and the City Arborist.

82 3) Counselors shall adhere to the Ohio Administrative Code's [Duty to Protect](#) which outlines a provider's
83 legal and ethical duty to protect others if they believe a client is a threat to another person, persons, or
84 identifiable structure. The [Ohio Revised Code](#) defines conditions where a provider can be held liable for
85 damages.

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87 Mr. Chesar stated that the Planning Commission also added an additional condition that requires an update one
88 year from the start of services to be presented to the Planning Commission. He apologized for that the condition
89 was not added to his memo.

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91 Mr. Chesar closed by stating the revision to the previous conditions is a minor change that is intended to result in
92 the church having the ability to offer all forms of counseling to benefit the citizens of Montgomery. Planning
93 Commission also worked with the applicant to update the regulations to ensure that the operations would
94 seamlessly operate within the Church campus while also providing for criteria to balance the potential counseling
95 service operations that will be located in a residential zoning district. They proposed changes within the
96 Reconsideration of the Conditional Use will give the church the ability to provide services that align with the
97 mission of the Church while also providing significant opportunities to make an impact on mental health in a less
98 institutional aesthetic setting of the welcoming ministry center.

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100 Mrs. Bissmeyer thanked the Planning Commission for their thoroughness and time on this request. She explained
101 that she had some of the same concerns as the Planning Commission. She stated that laws that were established
102 for churches originally were outside of the uses being conducted now. She stated that she felt the City has to be
103 extra careful that we do not cross lines of faith-based institutions operating as businesses in a residential area. She
104 stated that she feels we need to exercise fairness for all programs held based on current uses as precedent has
105 already been set with allowing Day Cares and Fish Frys at churches. She stated she is in favor of the conditional
106 use, however, feels this exceeds the original scope of the code.

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108 Mrs. Mills-Reynolds explained that she felt the Church and Planning Commission took the time to address
109 business issues and likes that they opened the counseling services up to the community.

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Mr. Dobrozsi thanked the Church for all they do for the community. He stated that he remembers the long process back in 2019 that entailed protecting the residential structure on the property, parking lot enlargement and retention work. He thanked them for doing what they committed to do as well as meeting conditions placed on them by the City.

Mr. Suer stated that he also remembers the process and stated that the Church addressed all issues very well. He stated he felt the questions about the counseling services have been resolved. He explained that Montgomery has made an effort to increase awareness of Mental Health with the number of community presentations and Mental Health Fair in an effort to provide resources. He stated that the services offered by the Church will be one more resource for the community and feels it is a worthy mission.

Mr. Margolis stated that he was at the 2019 Planning Commission meetings and feels that the Commission and staff were committed to protect the boundaries between residents and businesses. He stated that the Church is a valued part of the community. He stated that the protections put in place by the Planning Commission make the most sense and do not in impede on residents' property.

Mr. Donnellon thanked the Church for seeking permission rather than forgiveness in implementing the services. He thanked the Planning Commission for their thoroughness in the process. Mr. Donnellon did express concern regarding restricting the patient population and the duty to protect the community. He explained that the law places the duty on the counselor to protect the community. He explained that when a patient expresses intent of violence the counselor is no longer obligated to patient confidentiality and is liable to notify law enforcement. He posed the question of whether the Church would not be liable. He asked if eliminating #3 of the conditions would change the intent of the Planning Commission.

Mr. Chesar replied that he felt the Planning Commission understands that it is part of the State Statute and would not object to that condition being removed.

Mr. Donnellon stated that his concern was if the condition was putting a duty on the Church if the counselor did not perform their duty. He stated that in essence the Church is a landlord. He recommended to modify the conditions by eliminating condition #3. Mr. Donnellon explained that it would require 5 of the 7 council members to remove it.

Mr. Suer suggested that if a contract is used between the Church and a counselor that the Church could spell out the requirements if the condition in the contract.

Jean Bove, 10365 Montgomery Road-Ms. Bove explained to Council that she is concerned about the safety of the community if there were dangerous patients treated at the church. She stated that it was not clear what "dangerous" meant and what type of counseling was involved. She asked if the counselor would treat a court-ordered treatment for instance. She asked if the counseling services could be restricted to the local community.

Mr. Donnellon responded to Ms. Bove that the duty to protect the community is on the counselor as previously discussed. He explained that the Planning Commission does not want to restrict services to only Montgomery and that this office is a satellite not a primary, permanent location.

Mrs. Mills-Reynolds explained that it is a benefit that having licensed counselors who are required to follow the State Statute. She stated that there are patients in the area already with the medical buildings on Montgomery Road and that restrictions like this cannot be totally legislated.

Mrs. Bissmeyer stated that the Planning Commission confirmed with the church that services will not be offered for anything sexually related.

162 Nermine Bankè, 7492 Trailwind Drive-Ms. Bankè, a representative of the Church, stated that there is a regulation
163 in place already and that the intention is to focus on the local community. She explained that there was no
164 intention to reach out to the broader community to offer services. She stated that the intent was to focus on the
165 Sycamore School community. Ms. Bankè thanked the Planning Commission and City Council's time and work.

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167 Mr. Margolis stated that most of the services were geared to school age children.

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169 Ms. Bankè explained that they would be partnering with providers who operate their own businesses for youth.
170 Psychiatric services specializing in youth. She stated there is no intent for sexual or violence treatment.

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172 Mr. Dobrozsi explained that most referrals come from the school, pastor network as well as the partnership with
173 the City. He asked if Basset Psychological Services would be involved.

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175 Ms. Bankè replied that they will be involved for treatment of small children.

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177 Mr. Dobrozsi made a motion to accept the recommendation of the Planning Commission to approve the
178 Conditional Use permit based on the conditions set forth by the Planning Commission with exception of
179 eliminating #3 as it is a State Statute. Mr. Margolis seconded.

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181 The roll was called and showed the following vote:

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183 AYE: Bissmeyer, Mills-Reynolds, Dobrozsi, Messer, Suer, Margolis (6)

184 NAY: (0)

185 ABSENT: Naiman (1)

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187 Mayor Messer asked if there was any further business to be heard in the Public Hearing. There being none, he
188 asked for a motion to adjourn from the Public Hearing.

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190 Mr. Margolis made a motion to adjourn. Mr. Suer seconded. City Council unanimously agreed.

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192 The meeting was adjourned at 6:20 p.m.

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Connie Gaylor, Clerk of Council